

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LAWNDALE SCHOOL DISTRICT.

OAH CASE NO. 2010120915

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On December 17, 2010, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) against the Lawndale School District (District). On December 30, 2010, the District filed a Notice of Insufficiency (NOI) as to Student's complaint. Student filed a response on December 31, 2010.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

Student’s complaint raises two issues for determination and the facts alleged in the complaint are sufficient to put the District on notice of the issues forming the basis of the complaint.<sup>8</sup> Issue 1 in Student’s complaint asserts that the District denied Student a FAPE by failing to assess him in all areas of suspected disability. While the complaint could be clearer regarding Student’s suspected disabilities, Student provides a sufficient factual basis regarding his suspected areas of disability and the District’s purported failure to assess. Accordingly, Issue 1 is legally sufficient.

Student alleges in Issue 2 that the District denied him a FAPE by failing to design an educational program that adequately addressed his unique needs to permit him to make meaningful educational progress. While some allegations against the District are confusing, the complaint is sufficiently clear to provide an adequate factual basis regarding Student’s unique needs, the individualized education programs at issue and how the District allegedly failed to address Student’s unique needs. Accordingly, Issue 2 is legally sufficient.

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<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3 [nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3 [nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

<sup>8</sup> Issue 3 in Student’s complaint is a proposed resolution requesting compensatory education for the District’s purported denial of FAPE.

Student's complaint identifies the issues and contains adequate related facts about the problem and adequate proposed resolutions to permit the District to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's complaint is sufficient.

#### ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: January 3, 2011

/s/  
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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings